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DEBORAH J. THOMAS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

DEBORAH J. THOMAS,

No. CV 07-04392 CW

Plaintiff,

**DECLARATION OF DEBORAH J.
THOMAS IN SUPPORT OF
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

THE WALT DISNEY COMPANY, WALT
DISNEY STUDIOS, DISNEY PRESS,
PIXAR ANIMATION STUDIOS, WALT
DISNEY FEATURE ANIMATION, WALT
DISNEY PICTURES, DISNEY
ENTERPRISES, INC. and DOES 1
through 100, Inclusive,

Date: January 31, 2008
Time: 2:00 p.m.
Department: #2
Judge: Hon Claudia Wilken

Defendants.

I, Deborah J. Thomas, declare as follows:

1. On April 6, 2001, I submitted my original and novel story, "Squisher the Fish" to one of Defendants' departments, Disney Press. I marked my letter "submission." I included a cover letter with the submission. Attached as Exhibit A is a true and correct copy of the cover letter.

2. The story I submitted to Defendants was slightly different than the story registered with the copyright office. The story submitted differs slightly in that the first page, second paragraph reads: "[G]uarded by his parents until the egg hatched out of the

1 the fry" as opposed to "[O]ut of an egg hatched this tiny yellow fish." Attached as
 2 Exhibit B is a true and correct copy of the story submitted to Defendants on April 6, 2001.
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4 3. On June 22, 2001, I received a letter from Defendants claiming that
 5 it was not their business practice to accept creative submissions. Attached as Exhibit C is
 6 a true and correct copy of that letter.

7 4. On July 31, 2003, I downloaded an article about Finding Nemo from
 8 one of Disney's websites. In the article, it is discussed that William H. Macy was
 9 originally the voice of Marlin, when "Finding Nemo" was "still a fairly dark film."
 10 Eventually a decision was made that the movie needed to be "radically lightened up."
 11 Attached as Exhibit D is a true and correct copy of the article.

12 5. On January 8, 2008, I downloaded from the website <http://xpress.sfsu.edu/archives/arts/000076.html> an article interviewing Lee Unkrich, co-
 13 director of the movie, "Finding Nemo." In the article he discusses that in the original
 14 conception of the movie when Nemo is taken away to the aquarium he does not want to
 15 go home. Attached as Exhibit E is a true and correct copy of the article.

16 6. Attached as Exhibit F, is a true and correct copy of pages from
 17 Defendants' copyright deposit registered under number VA 1-190-553. The pages reflect
 18 artwork that depicts characters Gill and Nemo as "King of the tank" or "King for the day."

19 7. I have noticed a variety of merchandise describing the character
 20 Nemo as "King of the tank" or "King for the day." One example is a pair of pajamas from
 21 the website:

22 <http://www.plunderhere.com/auction/cgi-bin/auction/view?cmd=view&listingID=280875>
 23 Attached as Exhibit G is a true and correct copy of a photo from the above website.

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2 8. On May 25, 2007, I visited a "Finding Nemo" website and played a
3 video game entitled "Pearl's Puzzles." After completing the game, the screen read "You
4 did it! KING OF THE TANK". I have attached as Exhibit H a true and correct copy of
5 the image I captured from my computer screen on May 25, 2007.

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7 I declare under penalty of perjury that the above is true and correct to the best of
8 my knowledge and belief. Executed on January 10, 2008 in Gainesville, Florida.

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Deborah J. Thomas